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TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER REGARDING:

House Bill No. 8384

ENTITLED, AN ACT RELATING TO MOTOR AND OTHER VEHICLES – MOTOR VEHICLE OFFENSES – CASEY’S LAW

Chairwoman Hagan McEntee and Members of the House Judiciary Committee:

The Office of the Public Defender **opposes** House Bill No. 8384, which would add a two-year enhancement to sentence for any motor vehicle offense committed as a result of road rage. While we understand the tragic circumstances that have led to the creation of this bill, we respectfully submit that such enhancement statutes are both difficult to implement and constitutionally problematic.

The two concerns actually overlap: both result from the difficulty of determining when road rage is a factor in a driving situation. Although the statute attempts to define it as “the operation or use of a motor vehicle, or behavior on the part of the operator or passenger of a motor vehicle that is intentionally aggressive, harassing, threatening, intimidating, or dangerous and that is directed toward another motor vehicle operator or passenger upon any public highway, public roadway, or reasonable extension of any public highway or roadway, to which the public has access,” such a definition is inherently based on the mental condition of the defendant.

While certain crimes have specific intent requirements that are workable in court (such as assault with the intent to commit specified felonies, first- and second-degree sexual assaults, and burglary), **it has proven to be a lot more difficult to prosecute a case when the intent concerns the motivation behind the crime, rather than the intent of the action itself.** In other words, it might be possible to prove that someone has burgled the home of another—*i.e.*, broke and entered at night with the intent to commit a felony therein—if the thief is caught removing high-value items from the property, or with the tools to do so. The intent to steal (*i.e.*, commit felony larceny) can be inferred from the action. But when the action is one such as break-checking, cutting someone off, or swerving on the highway—or any of the other actions that might consist of reckless driving (or another violation of Chapter 27 of Title 31)—it is much more difficult to infer whether it was done just to harass or threaten, as opposed to an accident, poor driving, or distraction.

Moreover, the inclusion of the word “passenger” in the statute means that drivers could be held liable—in the form of a mandatory two-year increase in sentence—for a motivation that **someone else** had in their mind. This type of situation is not the same as those encompassed by

the criminal liability theories of vicarious liability or conspiracy—in those situations all the participants are required to have a so-called “meeting of the minds,” which makes such theories both permissible and equitable. Here, there is no such requirement, which would make such a provision both constitutionally suspect and deeply unfair.

This difficulty with enhancement statutes has been reflected in the trouble the state has had in attempting to add the hate crime enhancement to criminal charges. Even though the “hate crime” statute has been around for decades, prosecutors have not been able to secure a conviction under this enhancement (at least as of February of this year).¹

The practical troubles of proving these cases interplay with constitutional vagueness concerns as well. The issues with policing thoughts and motivation is also what makes it difficult for the average person to know what is being criminalized, which is the entire concern underlying the entire “void for vagueness” constitutional doctrine.

The OPD is incredibly sensitive to the loss that has prompted the promulgation of this bill, but we are compelled to oppose it. Like the hate crime enhancement, the evidence is not there to suggest it will actually result in an increase in sentencing for this behavior or act as a true deterrent. Therefore, we respectfully request that the Committee reconsider H8384.

Sincerely,

/s/ Angela M. Yingling

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Legislative Liaison

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¹ Alexandra Leslie, *RI hate crimes sentencing enhancement remains unsuccessful despite five attempts*, WPRI, February 12, 2026, available at <https://www.wpri.com/target-12/ri-hate-crimes-sentencing-enhancement-remains-unsuccessful-despite-five-attempts/> (last accessed April 9, 2026).